

FIRST REGULAR SESSION

SENATE BILL NO. 523

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 19, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2131S.011

AN ACT

To repeal sections 338.035 and 338.220, RSMo, and to enact in lieu thereof three new sections relating to the board of pharmacy.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 338.035 and 338.220, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 338.035, 338.146,
3 and 338.220, to read as follows:

338.035. 1. Every person who desires to be licensed as an intern
2 pharmacist shall file with the board of pharmacy an application, on a form to be
3 provided by the board of pharmacy.

4 2. If an applicant for an intern pharmacist license has complied with the
5 requirements of this section and with the rules and regulations of the board of
6 pharmacy and is not denied a license on any of the grounds listed in section
7 338.055, the board of pharmacy may issue to him a license to practice as an
8 intern pharmacist [for a period not to exceed one year].

9 3. Any intern pharmacist who wishes to renew his license shall within
10 thirty days before the license expiration date file an application for a renewal.

11 4. A licensed intern pharmacist may practice pharmacy only under the
12 direct supervision of a pharmacist licensed by the board.

13 5. The board of pharmacy shall promulgate rules and regulations which
14 shall further regulate the duties and restrictions of intern pharmacists and shall
15 set the amount of the fees which shall accompany the license and renewal
16 applications for intern pharmacists.

17 6. [No rule or portion of a rule promulgated under the authority of this
18 chapter shall become effective unless it has been promulgated pursuant to the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 provisions of section 536.024, RSMo.] Any rule or portion of a rule, as that
20 term is defined in section 536.010, RSMo, that is created under the
21 authority delegated in this section shall become effective only if it
22 complies with and is subject to all of the provisions of chapter 536,
23 RSMo, and, if applicable, section 536.028, RSMo. This section and
24 chapter 536, RSMo, are nonseverable and if any of the powers vested
25 with the general assembly pursuant to chapter 536, RSMo, to review, to
26 delay the effective date, or to disapprove and annul a rule are
27 subsequently held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28, 2007, shall
29 be invalid and void.

338.146. 1. The board may issue a cease and desist order to stop
2 a person from engaging or offering to engage in an unauthorized
3 practice. The order must state the reason for its issuance. If, within
4 fifteen days after service of the order, the subject of the order fails to
5 appeal in writing to the circuit court of Cole County, the county in
6 which the conduct occurred, or the county in which the defendant
7 resides, the cease and desist order becomes final.

8 2. The board may enforce its cease and desist order by applying
9 to the circuit court of Cole County, the county in which the conduct
10 occurred, or the county in which the defendant resides for an order
11 upon any person who shall fail to obey a cease and desist order to show
12 cause why such cease and desist order should not be enforced, which
13 such order and a copy of the application therefore shall be served upon
14 the person in the same manner as a summons in a civil action. If the
15 circuit court, shall, after a hearing, determine that the cease and desist
16 order should be sustained and enforced, such court shall proceed to
17 enforce the cease and desist order in the same manner as though the
18 order had been issued by the court.

19 3. The phrase "unauthorized practice" as defined in this section
20 shall mean the practice of pharmacy or wholesale drug distribution by
21 a person or entity who holds no license, certification, registration, or
22 permit from the Missouri board of pharmacy.

338.220. 1. It shall be unlawful for any person, copartnership,
2 association, corporation or any other business entity to open, establish, operate,
3 or maintain any pharmacy as defined by statute without first obtaining a permit
4 or license to do so from the Missouri board of pharmacy. The following classes

5 of pharmacy permits or licenses are hereby established:

- 6 (1) Class A: Community/ambulatory;
- 7 (2) Class B: Hospital outpatient pharmacy;
- 8 (3) Class C: Long-term care;
- 9 (4) Class D: Nonsterile compounding;
- 10 (5) Class E: Radio pharmaceutical;
- 11 (6) Class F: Renal dialysis;
- 12 (7) Class G: Medical gas;
- 13 (8) Class H: Sterile product compounding;
- 14 (9) Class I: Consultant services;
- 15 (10) Class J: Shared service;
- 16 (11) Class K: Internet;
- 17 **(12) Class L: Veterinary.**

18 2. Application for such permit or license shall be made upon a form
19 furnished to the applicant; shall contain a statement that it is made under oath
20 or affirmation and that its representations are true and correct to the best
21 knowledge and belief of the person signing same, subject to the penalties of
22 making a false affidavit or declaration; and shall be accompanied by a permit or
23 license fee. The permit or license issued shall be renewable upon payment of a
24 renewal fee. Separate applications shall be made and separate permits or
25 licenses required for each pharmacy opened, established, operated, or maintained
26 by the same owner.

27 3. All permits, licenses or renewal fees collected pursuant to the
28 provisions of sections 338.210 to 338.370 shall be deposited in the state treasury
29 to the credit of the Missouri board of pharmacy fund, to be used by the Missouri
30 board of pharmacy in the enforcement of the provisions of sections 338.210 to
31 338.370, when appropriated for that purpose by the general assembly.

32 **4. Class L: Veterinary permit shall not be construed to prohibit**
33 **or interfere with any legally registered practitioner of veterinary**
34 **medicine in the compounding or dispensing of their own prescriptions.**

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